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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/049,696
Filing Date: February 15, 2002
Appellant(s): BRIQUE ET AL.

Stuart J. Friedman
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 28, 2009 appealing from the Office action mailed January 21, 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

EP 0491069 A1

PIROVANO et al.

06-1992

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 27, 29 – 31 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0491069 A1 issued to Tullio Pirovano et al. ("Pirovano") and in view of U.S. Patent Number 6,370,143 issued to Yasuaki Yamagishi ("Yamagishi").

With respect to claim 27, Pirovano teaches a method for transmitting messages over a communication network (Figure 1, page 3, lines 7 – 8) to update a large quantity of network user terminal databases, the messages being transmitted unidirectionally (Page 2, lines 1 – 2) from a managing center to a plurality of distributed user databases, each distributed user databases being stored in a user terminal (see Figure 1; page 3, lines 39 – 42), said method comprising the step of:

providing identical messages without any database addressing to be unidirectionally transmitted from the managing center (Page 2, lines 1 – 2), wherein each identical message includes controls that include queries for searching useful data present in distributed user database (page 9, lines 30 – 35); and updating database criteria that determines whether said predetermined data is either present or not present in the content of the distributed user terminal database (see abstract and page 2, lines 47 – 54). Pirovano teaches Broadcaster (2) and Broadcast Transmission unit (3) which represents managing center where updating of database take place (see Figure 1) and unidirectional connection to a plurality of distributed user database (Page 9, lines 1 – 7 or claim 1) and without a return message from the database (Page 9, lines 20 – 22 or claim 3).

Pirovano does not explicitly teach conditional updating of the distributed user database as claimed.

Yamagishi teaches a server structures at least update report data and transmits the update report data over a unidirectional broadcasting network enabling broadcast and contents of the database are updated with the distributed data (see abstract,

column 1, lines 52 – 62 and column 6, lines 59 – 67) and conditional updating of the database (see Figure 11, column 15, lines 19 – 45).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine Yamagishi with Pirovano to enable quick and efficient distribution of data (column 1, lines 49 – 50; Yamagishi).

As to claim 29, distributed user databases are integrated in Pay-TV reception subscriber's units and wherein the predetermined data comprise the reception rights of a subscriber (page 2, lines 29 – 39; Pirovano and column 7, lines 1 – 11; Yamagishi).

As to claim 30, the updating messages comprise a set of control-blocks comprising data and controls, and wherein said updating messages consist of carrying out comparison operations between the data and the contents of the distributed user database (Pirovano: page 6, line 34 – 39) and determining an action depending on the comparisons results, either to update the database, carry out the subsequent control block, to jump to another control block, or to terminate the message handling (Pirovano: page 5, lines 4 – 9).

As to claim 31, the database is divided or is of the relational type RDB (Yamagishi teaches database and distribution of data (column 1, lines 52 – 62 and column 6, lines 59 – 67)).

As to claim 39, each the network distributed user database is connected to a Pay-TV subscriber module and wherein the action consists of includes returning a message towards the subscriber module for carrying out in said module an event such as including at least one of a notice of a message on the a TV display, a sound signal,

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o~ and a phone call on a modem connected to t-he a public network (page 2, lines 5 – 17 and lines 29 – 39; Pirovano and column 7, lines 1 – 11; Yamagishi).

(10) Response to Argument

Appellant's arguments regarding the rejection of claims 27, 29 – 31 and 39:

Argument A: Pirovano does not teach providing identical messages without any database addressing (Page 5, Brief).

Argument B: Pirovano does not teach transmitting identical messages without any database addressing (Page 5, Brief).

Argument C: Pirovano does not teach that the message from the managing center includes queries for searching the useful data in the distributed user databases to uncover data for conditionally updating the user database (Page 6, Brief).

Argument D: The Examiner concedes that Pirovano does not teach conditional updating of the database (Page 6, Brief).

Argument E: Yamagishi does not perform conditional updating by a method or system which is totally unidirectional (Page 7, Brief).

Argument F: Neither of the cited references teach or suggest the claim limitations for which they were cited, the combination of these references is unlikely to establish the requisite level of obviousness to substantiate a rejection (Page 9, Brief)

Examiner's Response to Arguments:

In response to Appellant's argument, examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification. See MPEP 2111 [R-1]

Interpretation of Claims-Broadest Reasonable Interpretation

During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969).

Examiner interprets the claimed invention based on MPEP 2111 [R-1] and as per Applicant's specification, Applicant teaches a process and system of database updating, in particular for a database with **unidirectional access**. The system allows the transmission of messages which address to a previously non-defined subscriber's group. These messages comprise data and controls which **condition the updating** of a database according to one or more data. The system transmits messages comprising **requests which condition the updating of the database**. A language interpreter evolved for database designed to **receive conditional updating messages**, to carry out comparison operations on one or more criteria contained in the database and to update the database according to the result of the comparison.

As per claim language, the terminology "the messages being transmitted unidirectionally" and "a unidirectional connection" are not same as "unidirectional access". Nowhere in the specification, appellant teaches transmit unidirectionally and a unidirectional connection. Hence, Examiner interprets the claimed invention based on MPEP 2111 [R-1].

Pirovano teaches a method for the unidirectional transmission of data from one or more information providers to one or more end-user over a broadcast or multicast transmission medium. Yamagishi teaches conditional updating as shown in column 15, lines 19 – 45: When transmission data is transmitted from the server over the broadcasting network, the reception unit receives the transmission data at step S31 and transmits it to the selection unit 22. At step S32, the selection unit 22 references history information stored in the history information storage unit so as to judge whether or not the transmission data sent from the reception unit 21 should be selected. If it is judged at step S32 that the transmission data sent from the reception unit 21 should not be selected, that is, for example, if data identified by a data identifier arranged in normal-format data or update report-format data serving as the transmission data has not been stored as history information (or although data identified by the data identifier is stored, if the number of times by which the data has been read is zero), it is awaited until the next transmission data is transmitted over the broadcasting network 4. Control is then returned to step S31. In this case, the transmission data is not registered in the database 23. If it is judged at step S32 that the transmission data sent from the reception unit 21 should be selected, that is, for example, if data identified by a data identifier arranged in normal-format data or update report-format data serving as the transmission data is stored as history information in the history information storage unit 27, control is passed to step S33.

In response to Arguments A and B:

With respect to Applicant's argument Pirovano teaches a method for transmitting data by establishing a one-way connection between a single information-provider and a group of end-users, said group being a dynamic aggregation of said end-users **receiving the same data from said information-provider** (see page 9, lines 36 – 40).

Pirovano teaches database addressing and in Pirovano, each database comprises a unique identifier used for addressing.

In response to Argument C:

With respect to Applicant's argument Pirovano teaches a method for transferring data to the end-user after a connection was established, said data being organized as a sequence of information packets (NI), said information packets (NI) being received by the called end-user only after a check of the calling terminal address to verify that they relate to an established connection; terminating said connection in an implicit way by means of **a connection duration parameter carried in said first command packet (NCR)** and indicating the time after which the connection is automatically terminated, or in an explicit way by **transmitting a second command packet (NDR) carrying a specific request** of disconnection for said called terminal. Examiner interpreted query as command, because appellant's specification page 4 teaches the term "SQL" but it did not teach anything about query or searching.

In response to Argument D:

With respect to Applicant's argument, "the examiner concedes that Pirovano does not teach conditional updating of the database," examiner disagrees. This is a mischaracterization of examiner's statement. See Office Action, Page 5. The statement made by the examiner is "Pirovano **does not explicitly teach** conditional updating of the distributed user database." The allegation made by the Applicant is incorrect.

With respect to Appellant's argument Pirovano teaches a method for the unidirectional transmission of data from one or more information providers to one or more end-user over a broadcast or multicast transmission medium. Yamagishi teaches conditional updating as shown in column 15, lines 19 – 45 and as discussed above.

In response to Argument E:

With respect to Applicant's argument, Yamagishi reference was used for conditional updating and since, Pirovano clearly teaches unidirectional transmission, combination of Pirovano and Yamagishi teaches appellant's claimed limitation.

The invention of Pirovano relates to a method for transmitting data over a unidirectional broadcast or multicast transmission medium. More specifically it relates to a method for transferring digitally encoded data from one or more information-providers, acting as the sources of information, to selected end-users or groups of end-user through a single broadcaster. A subscriber television system in which individual text

messages may be directed to individual subscribers mixed with the TV programs. Furthermore, the conditional updating of Yamagishi reference (Figure 11, column 15, line 19 – column 18, line 26) clearly teaches applicants' claimed limitation the conditional updating of the databases. Yamagishi also teaches a bi-directional communication and one of ordinary skill in the art should know that **unidirectional is a subset of bi-directional**. Therefore, Yamagishi clearly teaches appellant's claimed limitation.

In response to Argument E:

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine Yamagishi with Pirovano to enable quick and efficient distribution of data (column 1, lines 49 – 50; Yamagishi).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Shahid Al Alam/
Primary Examiner, Art Unit 2162

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/John Breene/

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